(3)

IN THE HIGH COURT OF CHHATTISGARH:BILASPUR

WRIT PETITION NO. 44 OF 2000

PETITIONER: Budhram, son of Jogiram Sahu,
aged about 26 years,
R/o village Amodi,
P.S.Saragaon, Tehsil Champa
District Janjgir-Champa
(Chhattisgarh).

Vs.

RESPONDENTS:

1. Sub-Divisional-Officer(Revenue)
Champa, Competent Authority
Panchayat Election Tribunal
Champa, District Janjgir-Champa
Chhattisgarh.

2. Jagannath Prasad,
S/o Late Motilal Sahu,
Aged about 50 years,
R/o village Amodi,
Tehsil Champa District
Janjgir-Champa(Chhattisgarh).

3. Biharilal,
S/o Charamlal Ghasiya
aged about 25 years,
R/o Khapridih,
Tehsil Champa
District Janjgir-Champa.

4. Rajesh,
S/o Krishna Chand Patel,
Aged about 24 years,
R/o Bamahidih, Tehsil
Champa District Janjgir-Champa.

5. Ranglal,
S/o Radhelal Kewat,
Aged about 36 years,
R/o Amodi, Tehsil Champa
District Janjgir-Champa.

6. Vishnudas,
S/o Bhagwan Das Vaishnaw,
Aged about 28 years,
R/o Kuchheli, Tehsil Champa
District Janjgir-Champa.

7. Block Development Officer
Presiding Officer,
Bamnhidih Kuchheli,Amodi
Tehsil Champa District
Janjgir-Champa.

WRIT PETITION UNDER ARTICLES 226/227 OF CONSTITUTION OF INDIA, FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDMUS, PROHIBITION OR DIRECTIONS OR ORDERS ETC.

XI-HC-22

(82)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

A.F.R.

आदेश पत्रक

मामला क्रमांक W.P. No. 44/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23/06/2003

Shri Ashish Shrivastava, counsel for the petitioner.

Shri Ranbir Singh, GA for the respondents no. 1 and 7.

Shri B.D. Guru, counsel for the respondent no.2.

Heard.

In the election of Gram Panchayat Puchheli held on 01/02/2000 the petitioner had contested for the post of Sarpanch and was declared elected. He secured 251 votes. The respondents no. 2 and 3 had also contested for the said post, but lost. Subsequent thereto, an election petition was filed by the respondent no.2 challenging the election of the petitioner on the ground that the illegal acceptance of nomination of respondent no.3 had materially affected the election. It was also alleged that as the petitioner had indulged in corrupt practice, his election was liable to be set aside.

After examining the matter the Election Tribunal vide its order dated 14/11/2000 allowed the election petition on the ground of illegal acceptance of the nomination paper of respondent no.3 who belonged to Ghasiya Community and not

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. मामला क्रमांक 44 सन् 2000

विरुद्ध

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to Back Ward Community for which the post was reserved. However, the challenge to the election of the writ petitioner on the ground of corrupt practice was accepted and repelled. Aggrieved with the setting aside of his election, the petitioner has approached this Court for relief.

Considering the nature of the dispute, this Court had called upon the State counsel to produce the record which has been done. Shri K.S. Mandavi, who is a Returning Officer is also present in person. On being asked, learned counsel, on the basis of the record, submitted that the petitioner who was elected had secured 251 votes, respondent no.2 (election petitioner) had secured 175 votes and the respondent no.3 had secured 66 votes. Thus, assuming that the nomination of respondent no.3 had been rejected and all the 66 votes polled by him had been cast in favour of the election petitioner i.e., respondent no.2 the total number of votes polled by him would be 241 votes (175 + 66) which is less than number of votes (251) secured by the petitioner. This position is not disputed by the learned counsel.

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In the above view of the matter, the Court is of the opinion that considering the fact that respondent No.3 has not been declared elected i.e. he has lost election, wrongful acceptance of nomination cannot be said to have materially effected the election. Thus the order impugned dated 14.11.2000 (Annexure P/5) cannot be sustained and is accordingly quashed. Accordingly, the petition succeeds.

There shall be no order as to costs.

The original record be returned to the State.

Sd/-
P.C.Naik
Judge